

Minneapolis City Planning Department Report

Waiver From Moratorium Application (BZZ - 447)

Date: August 27, 2002

Applicant: Shawn Punjwani for Embassy Enterprises

Date Application Deemed Complete: August 13, 2002

End of 60 Day Decision Period: October 12, 2002

Address Of Property: 3807 Fremont Avenue North

Contact Person And Phone: Shawn Punjwani 612-363-5248

Planning Staff And Phone: Jim Voll 612-673-3887

Ward: 4 **Neighborhood Organization:** Webber-Camden Neighborhood Organization

Existing Zoning: C1 Neighborhood Commercial District

Reason For Waiver: To allow the property owner of 3807 Fremont Avenue North to rezone the northernmost lot of three lots located at 3807 Fremont Avenue North to C1 to allow an existing parking area to remain. The majority of the convenience store site is already zoned C1 and no expansion to the building is proposed.

Background: Currently there is a moratorium on the establishment, reestablishment, or expansion of any grocery store or automobile convenience facility in the C1 and C2 Districts in an area between Penn and Lyndale Avenues North and 26th and 44th Avenues North.

The site has been used as a convenience store since approximately 1975. All convenience stores are required to obtain site plan review approval. In December of 2001 the site was brought in for compliance. At that time staff discovered that the northernmost lot (40 feet wide) was zoned R2B Two-family Residential. There is parking on this part of the site. Parking for a commercial use is not allowed in a residential district. Since the applicant could not prove that the parking was installed legally, he was required to rezone the property in order to allow it to remain as parking. While the applicant was in the process of obtaining the rezoning signatures, the moratorium on grocery stores was implemented. If the waiver from the moratorium were granted, the applicant would proceed with the rezoning, site plan review, and installation of the required site improvements.

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Neighborhood Review: The Webber-Camden Neighborhood Organization supports the rezoning and site plan review for this site (see attached letter). As of the writing of this report the applicant has contacted the neighborhood group, but has not met with the neighborhood group regarding the waiver.

Findings:

Section 529.50 of the Minneapolis Code states that, “a waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purpose for which the interim ordinance is enacted.”

Hardship: The moratorium does not allow the expansion of any commercial use in the moratorium area. Even though the parking is existing and there would be no noticeable expansion, the area under the C1 zoning will be expanded. Unless a waiver is granted the parking area and driveway access in the north 40 feet of the site would have to be removed. The applicant considers this is a hardship.

Interference with the objectives of the moratorium: The moratorium was enacted to conduct a study to consider amendments to the comprehensive plan, zoning code, or other regulatory controls to address the issues relating to grocery stores and automobile convenience facilities. The City Council is concerned about the effects of conversion of properties to grocery stores and convenience stores in the C1 and C2 districts in the Camden area and the potential negative impacts that they may generate on surrounding residential properties.

The store is existing and the site will not be physically changed or expanded. The zoning will be changed to legalize a situation that has existed for several years. In addition, the site will receive site plan review and approval and will install the required site improvements. Since the applicant is only trying to comply with the site plan review chapter and to legalize the existing conditions and since no expansion to the use or site will physically occur, granting the waiver should not interfere with the objectives of the moratorium.

Recommendation Of The City Planning Department:

The City Planning Department recommends that the City Council adopt the above findings and **approve** the waiver application for property located at 3807 Fremont Avenue North.